

CHARLOTTE COUNTY PLANNING AND ZONING BOARD
Administration Center, 18500 Murdock Circle, Room 119, Port Charlotte, Florida
DRAFT Minutes of Regular Meeting
June 13, 2011 @ 1:30 p.m.

Call to Order

Chair Hess called the meeting to order at 1:29 p.m. and upon the Secretary calling the roll, it was noted a quorum was present.

Roll Call

PRESENT

Paula Hess
Michael Gravesen
Michael Brown
James Marshall
Brenda Bossman

ABSENT

[Ms. Bossman arrived just after the roll call]

ATTENDING

Derek Rooney, Assistant County Attorney
Gayle Moore, Recording Secretary

APPROVAL OF MINUTES

The minutes of May 9, 2011 were approved as circulated.

ANNOUNCEMENTS

None. The oath was administered, whereupon the meeting commenced.

PETITIONS

PD-80-6B (Z-11-04-09)

Quasi-Judicial

Commission District V

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas. The rezoning is from Planned Development (PD) to PD. This is a major modification of an existing PD to revise conditions of approval, for property located at 20212 Peachland Boulevard, in the Port Charlotte area, containing 21± acres; Commission District V; Petition No. PD-80-6B; Applicant: New Day Christian Church at Port Charlotte, Inc. f/k/a First Christian Church of Port Charlotte, Inc.; providing an effective date.

Staff Presentation

Jie Shao, Planner III, presented the findings and analysis of the petition with a recommendation of *Approval*, based on the reasons stated in the staff report dated May 20, 2011 and the evidence presented at the public hearing on the application. She provided a brief history of the development of the neighborhood and the subject property.

Questions for Staff

None.

Applicant's Presentation

Mr. Robert H. Berntsson, Esq., applicant's agent, spoke in support of the project, noting that he had been involved in the original development of the site as well as a few subsequent changes. He also described the programs administered by the YMCA which are intended to

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be offered via the Church facilities. He emphasized the 'good neighbor' nature of the Church during its time in operation in this neighborhood.

Public Input

Ms. Jeanne Martin asked if a new building was being built; in response, **Mr. Berntsson** indicated no new construction would be required.

Mr. Steve Vito, chair of the Charlotte YMCA and member of the Church, spoke in support of the project, noting the participation of the Y in assisting low-income families find child care. He emphasized that the services were targeted toward very young children, not the entire K-12 range.

Chair Hess inquired about the amenities originally provided for (athletic field, gymnasium, summer camp, etc.) and asked if any of those were currently being used; **Mr. Berntsson** responded to the question, noting that, for the most part, these features were not currently in use or not to the fullest extent.

- **Mr. Marshall** moved to close the public hearing, second by **Mr. Gravesen** with a unanimous vote.

Discussion

Chair Hess stated that she agreed with the staff's recommendation, and also with the value of the programs to be offered to the community; **Mr. Gravesen** concurred and also mentioned Liberty Elementary was in the same neighborhood and could also be served by this addition.

Recommendation

Mr. Gravesen moved that application **PD-80-6B/Z-11-04-09** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated May 20, 2011, along with the evidence presented at today's meeting, second by **Mr. Marshall** and carried by a unanimous vote.

[There was a brief pause in the proceedings while members of the audience left the room.]

Z-11-03-06

Quasi-Judicial

Commission District I

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Commercial General (CG) to Commercial Intensive (CI), for property located at 3131 Foley Drive, in the Harbour Heights area, containing 0.66± acres; Commission District I; Petition No. Z-11-03-06; Applicant: Brad Felker; providing an effective date.

Staff Presentation

Jie Shao, Planner III, presented the findings and analysis of the petition with a recommendation of *Approval*, based on the reasons stated in the staff report dated May 20, 2011 and the evidence presented at the public hearing on the application.

Questions for Staff

None.

Applicant's Presentation

Mr. Brad Felker, applicant, spoke in support of the project, giving a brief explanation of the business expansion considerations which have led to the need for the rezoning. **Chair Hess**

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asked if he was aware he would need to buffer his property from the adjacent CG properties; he said that he was. **Mr. Brown** asked him about the increase in employees that his business might bring; **Mr. Felker** said that he would add 4-6 new employees to begin with and if things go well, may add as many as 15-20.

Public Input

Ms. Debra Picard, a neighboring business owner, spoke in support of the project.

Mr. Tim Thompson, also a neighboring business owner, also spoke in support of the project.

Mr. Bill Alvarez, also spoke in support of the project, and of the general effort to attract other business to the area. He felt that it should be easier to get a CI zoning in the area.

Chair Hess asked about the neighborhood study that had been proposed for the area; **Mr. Alvarez** said the conclusion was that difficulty arose out of the proximity of the residences to the business area. Further discussion ensued on this subject. He said that there is still a Civic Association, but they do not seem to feel empowered to do anything.

- **Mr. Marshall** moved to close the public hearing, second by **Mr. Gravesen** with a unanimous vote.

Discussion

Chair Hess said she agreed with the staff recommendation and the wishes of the public who had spoken. **Ms. Bossman** said that she supported it also, but would not if the project property was facing residential uses.

Recommendation

Mr. Brown moved that application **Z-11-03-06** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated May 20, 2011, along with the evidence presented at today's meeting, second by **Mr. Gravesen** and carried by a unanimous vote.

PA-11-04-07

Legislative

Commission District I

An Ordinance pursuant to Section 163.3187(1)(C), Florida Statutes, for an amendment to the 2030 Future Land Use Map of the Charlotte County Comprehensive Plan from Low Density Residential (LDR) to Office and Institutional (OI), for property located at 25325 Rampart Boulevard, in the Port Charlotte area, containing 5.47± acres; Commission District I; Petition No. PA-11-04-07; applicant: Port Charlotte Healthcare Associates; providing an effective date.

Z-11-04-08

Quasi-Judicial

Commission District I

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Agriculture Estates (AE) to Office, Medical and Institutional (OMI), for property located at 25325 Rampart Boulevard, in the Port Charlotte area, containing 5.47± acres; Commission District I; Petition No. Z-11-04-08; Applicant: Port Charlotte Healthcare Associates; providing an effective date.

Staff Presentation

Roxann Read, Planner II, presented the findings and analysis of the petitions with a recommendation of *Approval*, based on the reasons stated in the staff report dated May 20, 2011 and the evidence presented at the public hearing on the application. She described the applicant's purpose with regard to the proposed expansion.

Questions for Staff

None.

Applicant's Presentation

Dave Schmitt, DSE, applicant's agent, spoke in support of the project. **Ms. Debbie Kennedy** spoke on behalf of Port Charlotte Healthcare Assocs., giving a detailed description of the improvements contemplated. **Chair Hess** asked about the name of the business; **Mr. Marshall** asked about the parking requirements for the expansion. **Ms. Kennedy** responded with details about outpatient therapy traffic.

Public Input

Mr. James Duffy, Chairman of the Board of Heritage Lake Park which is near the facility, spoke in favor of the project of behalf of the Park, noting the facility had been there for a while with no problems for the surrounding residential neighborhood.

- **Mr. Marshall** moved to close the public hearing, second by **Mr. Gravesen** with a unanimous vote.

Discussion

Chair Hess commented that the project seemed entirely appropriate.

Recommendation

Mr. Brown moved that application **PA-11-04-07** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated May 20, 2011, along with the evidence presented at today's meeting, second by **Mr. Gravesen** and carried by a unanimous vote.

Mr. Brown moved that application **Z-11-04-08** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated May 20, 2011, along with the evidence presented at today's meeting, second by **Mr. Gravesen** and carried by a unanimous vote.

LDR Text Amendment

(Pain Management Clinics)

Legislative

County-wide

An ordinance amending Chapter 3-9 of the Code of Laws and Ordinances of Charlotte County, Florida, by amending Section 3-9-2 Rules of construction; definitions; by amending Section 3-9-39 Office, medical, institutional; 3-9-90 Off-street parking and loading facilities; and by creating Section 3-9-90.1 Pain Management Clinics; providing for conflict with other ordinances; providing for severability; and providing an effective date. Applicant: Charlotte County Board of County Commissioners.

Inga Williams, Principal Planner, presented the substance of the text amendment with a recommendation of *Approval*, based on the reasons stated in the staff report dated May 31, 2011 and the evidence presented at the public hearing on the application. She noted the changes included new definitions for some terms, revision of the Office, Medical and Institutional zoning district to include the use as a Special Exception use, and changes to parking requirements.

Questions for Staff

Chair Hess said she had spoken to Sheriff's office personnel regarding the law enforcement problems associated with "pill mills" including loitering, parking, drinking, and the effect these

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activities had on neighboring businesses. **Chair Hess** wanted to know how far the County could go in dealing with this issue through the Special Exception; **Kira Honse**, Assistant County Attorney, addressed that question, noting a companion ordinance would be crafted to address some of those non-zoning issues directly. There was also a question with regard to control of various substances, which **Ms. Honse** addressed, including that state law on the subject would sunset in 2016, so Charlotte, like other counties, is enacting its own non-sunsetting legislation.

Chair Hess asked if the total number of such outlets can be limited in Charlotte County; Assistant County Attorney **Derek Rooney** responded on that question, indicating that the kind of studies necessary to support such a limitation had not actually been done. **Chair Hess** also asked about the occupational license, and **Ms. Honse** responded on that subject, noting that it is now called the business tax receipt. **Mr. Gravesen** asked what would happen if a "pill mill" already existed within a mile of the interstate, once the law which prohibits such proximity goes into force – would the business have to close down immediately? **Mr. Rooney** noted that at the time of the business tax receipt renewal, they would lose the right to operate at that location. **Mr. Gravesen** had additional question about the interaction between local laws and state regulations and whether the County was duplicating those regulations; **Ms. Honse** noted that the clinics are required to register with the Department of Health and stated that there is no duplication. Further discussion ensued on this matter, **Ms. Honse** describing how complaints would be investigated by Code Enforcement staff. Responding to a question from Mr. Gravesen, **Mr. Rooney** described how regulation of pain management clinics would resemble that of adult businesses.

Chair Hess asked what was needed to make enforcement a matter for the Sheriff's office; **Mr. Rooney** said that would rest on how the ordinance was worded, and **Chair Hess** suggested wording it in a way to give the Sheriff the necessary tools to act.

Mr. Gravesen had additional questions about the interaction of Special Exceptions and the tiered zoning structure; **Ms. Williams** confirmed that the tiered aspect only concerned permitted uses, while Special Exceptions pertain to non-permitted uses. **Mr. Gravesen** had a question about restricting hours of operation and whether such restrictions were imposed on other uses; further discussion ensued. **Mr. Gravesen** noted that such clinics need a Health Dept. license to operate and he expressed concern that the local ordinances being contemplated was just an additional layer of limitation on top of the existing licensing which might present issues for legitimate doctors. Limitations on the workings of legitimate doctors was discussed at some length between Ms. Bossman and Ms. Honse. **Mr. Marshall** asked about the situation where two clinics were in business within five miles of one another, so that one had to go out of business – how would it be determined which one would have to go out of business? **Ms. Honse** responded to this question, noting that there are currently nine of these clinics in operation in the County. Further discussion ensued on the details of the clinic operation and other legislation affecting them.

Public Input

None.

- **Mr. Marshall** moved to close the public hearing, second by **Mr. Brown** with a unanimous vote.

Recommendation

Mr. Gravesen moved that changes to 3-9-3, 3-9-39, 3-9-90 and the creation of section 3-9-90.1 be forwarded to the Board of County Commissioners with a recommendation of

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Approval, based on the findings and analysis in the staff report dated May 31, 2011, along with the evidence presented at today's meeting, second by **Mr. Marshall** and carried by a unanimous vote.

There being no further business to come before the Board, meeting was adjourned at 2:30 p.m.